

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature Second Regular Session - 2012

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 567

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ADMINISTRATIVE PROCEDURES; AMENDING SECTION 67-5250, IDAHO CODE, TO REVISE THE TYPE OF MATERIALS THAT SHALL CONSTITUTE AGENCY GUIDANCE AND TO PROVIDE THAT ANY STATEMENT IN AN AGENCY GUIDANCE DOCUMENT THAT MEETS THE DEFINITION OF A "RULE" AS SPECIFIED BY LAW SHALL NOT BE FOLLOWED OR APPLIED UNTIL THE STATEMENT IS ADOPTED AS A RULE THROUGH THE RULEMAKING PROCESS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-5250, Idaho Code, be, and the same is hereby amended to read as follows:

67-5250. INDEXING OF PRECEDENTIAL AGENCY ORDERS -- INDEXING OF AGENCY GUIDANCE DOCUMENTS. (1) Unless otherwise prohibited by any provision of law, each agency shall index all written final orders that the agency intends to rely upon as precedent. The index and the orders shall be available for public inspection and copying at cost in the main office and each regional or district office of the agency. The orders shall be indexed by name and subject.

A written final order may not be relied on as precedent by an agency to the detriment of any person until it has been made available for public inspection and indexed in the manner described in this subsection.

(2) Unless otherwise prohibited by any provision of law, each agency shall index by subject all agency guidance documents. The index and the guidance documents shall be available for public inspection and copying at cost in the main office and each regional or district office of the agency. As used in this section, "agency guidance" means all written documents, other than rules, orders, and pre-decisional material, that are intended to guide agency actions affecting the rights or interests of persons outside the agency. "Agency guidance" shall include memoranda, manuals, policy statements, interpretations of law or rules, and other material ~~that are of general applicability~~, whether prepared by the agency alone or jointly with other persons. The indexing of a guidance document does not give that document the force and effect of law or other precedential authority. Any statement in an agency guidance document that meets the definition of a "rule" as provided in section 67-5201(19), Idaho Code, shall not be followed or applied by any agency until the statement is adopted as a rule through rulemaking in compliance with the provisions of this chapter.